



EMPLOYMENT TRIBUNALS

Claimant

Mr C Harrison

v

Respondent

The Plastics Group Ltd

Heard at: Norwich (by CVP)

On: 11 February 2022

Before: Employment Judge Postle

Appearances

For the Claimant: Did not attend and was not represented.

For the Respondent: Mr Kramer (Managing Director).

JUDGMENT

1. I reconsider and revoke the Judgment given by me on 6 April 2021 sent to the parties on 22 April 2021.
2. The respondent's application for an extension of time for filing its response is granted. The response filed by the respondent on 23 August 2021 shall be accepted.

REASONS

1. On 6 April 2021 I gave Judgment for the claimant on his claim in respect of unpaid wages for the months which the claimant had claimed in his claim form for June, October, November, December and that was in default of any response having been received on time.
2. By email of 24 April 2021 Mr Kramer indicated that he wished to appeal the Judgment he had now received. He tells us that would come from his accountant. There was a letter from the respondent's accountant dated 29 April indicating that the claimant had terminated his employment with the respondent on 9 October 2020. Given that fact no salary was therefore due to the claimant from that period.
3. Mr Kramer tells me this morning that the claimant has been paid all salary for June, July, August and September that was due to him. It is therefore unfortunate the claimant has not attended this morning's hearing to

confirm whether this is the position and also that he commenced new employment on 1 October 2020. That being so it would appear that the claimant's claim apart from not being genuine might be in some way vexatious. The claimant needs to set out his position in respect of this matter within 14 days.

4. Furthermore, the respondent confirms that their registered office where the claim was sent was changed on 17 December 2020 and the respondent did not have a mail re-direction service in place.
5. Rules 70 to 72 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 apply. A judgment may be re-considered if it is in the interests of justice to do so. I must also apply the overriding objective set out at rule 2 and seek to balance the prejudice between the parties.
6. A late response accompanied by an application for an extension of time is provided for by rule 20. The exercise of the judicial discretion in consideration of such an application also entails applying the overriding objective and balancing the prejudice to the parties.
7. The purpose of the Default Judgment provisions of rule 21 is to provide justice where a respondent ignores a claim. It is not to punish inefficiency, error or oversight. If the Judgment stands, it would appear that the claimant will obtain potentially a windfall for what he is not entitled to in respect of wages for a period when he was not working for the respondent. That is clearly a significant prejudice to the respondent. The balance of prejudice favours granting the applications. It is proportionate and in accordance with the overriding objective to grant both applications.
8. Finally the claimant needs to confirm within 14 days of this Judgment being sent out whether it is indeed correct that he obtained new employment from 1 October 2020 and thus why he is claiming wages from the respondent for a period thereafter when he was not working for the respondent.

Employment Judge Postle

Date: 25/02/2022.....

Sent to the parties on:

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For the Tribunal Office